

98TH CONGRESS
1ST SESSION

H. R. 2067

To amend the Export Administration Act of 1979 to improve consultation procedures with respect to export controls imposed for foreign policy reasons.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1983

Mr. HAMILTON introduced the following bill; which was referred to the
Committee on Foreign Affairs

A BILL

To amend the Export Administration Act of 1979 to improve consultation procedures with respect to export controls imposed for foreign policy reasons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 CONSULTATION WITH THE CONGRESS REGARDING EXPORT
4 CONTROLS IMPOSED FOR FOREIGN POLICY REASONS

5 SECTION 1. Section 6(e) of the Export Administration
6 Act of 1979 (22 U.S.C. app. 2405(e)) is amended to read as
7 follows:

8 “(e) CONSULTATION WITH THE CONGRESS.—(1)

9 Except in the case of provisional export controls under para-
10 graph (4), the President may impose, expand, extend, or oth-

1 erwise modify export controls under this section only after
2 consultation with the Congress in accordance with paragraph
3 (2).

4 “(2)(A) The consultation with the Congress which is re-
5 quired by paragraph (1) means in-person discussions by desig-
6 nated representatives of the President, after policy options
7 have been developed by the executive branch but before a
8 decision has been made, with the following Members of Con-
9 gress:

10 “(i) The chairman and ranking minority member
11 of the Committee on Foreign Affairs of the House of
12 Representatives and of the Committee on Banking,
13 Housing, and Urban Affairs and the Committee on
14 Foreign Relations of the Senate, except that each such
15 chairman or ranking minority member may designate
16 another member of the committee to act in his stead if
17 he will not be able to participate in such in-person dis-
18 cussions.

19 “(ii) The chairman and ranking minority member
20 of such subcommittee or subcommittees of each com-
21 mittee specified in clause (i) as the chairman of that
22 committee may designate.

23 “(iii) Other members of each committee specified
24 in clause (i) to the extent determined to be appropriate
25 by the chairman of that committee.

1 “(B) The purpose of the discussions under this para-
2 graph shall be to discuss the application of the criteria set
3 forth in subsection (b), compliance with the requirements of
4 subsections (c), (d), and (g), consultations with other coun-
5 tries, and such other matters relative to the export controls
6 as the participating Members of Congress may specify.

7 “(C) The designated representatives of the President
8 who meet with Members of Congress for discussions under
9 this paragraph shall include representatives of the Depart-
10 ment of Commerce, the Department of State, and (when ap-
11 propriate) other departments and agencies, who are involved
12 in substantive policy formulation with respect to the issues
13 involved and who occupy positions requiring appointment by
14 the President by and with the advice and consent of the
15 Senate.

16 “(D) Discussions under this paragraph shall be held at
17 times to be jointly determined by the designated representa-
18 tives of the President and the chairman of each of the com-
19 mittees specified in subparagraph (A)(i).

20 “(E) To the extent possible, detailed information on the
21 subjects to be discussed pursuant to this paragraph shall be
22 provided in writing by the executive branch to the participat-
23 ing Members of Congress in advance of the in-person discus-
24 sions.

1 “(3) Following consultation with the Congress in ac-
2 cordance with paragraph (2) and before imposing, expanding,
3 extending, or otherwise modifying any export controls under
4 this section, the President shall submit to the Congress a
5 report—

6 “(A) indicating how the proposed export controls
7 will further, significantly, the foreign policy of the
8 United States or will further its declared international
9 obligations;

10 “(B) specifying the conclusions of the President
11 with respect to each of the criteria set forth in subsec-
12 tion (b), and any possible adverse foreign policy conse-
13 quences;

14 “(C) describing the nature and results of the con-
15 sultation with industry pursuant to subsection (c);

16 “(D) specifying the nature and results of any al-
17 ternative means attempted under subsection (d), or the
18 reasons for imposing, extending, expanding, or other-
19 wise modifying the controls without attempting any
20 such alternative means;

21 “(E) describing the availability from other coun-
22 tries of goods or technology comparable to the goods
23 or technology subject to the proposed export controls,
24 and describing the nature and results of the efforts
25 made pursuant to subsection (g) to secure the coopera-

1 tion of foreign governments in controlling the foreign
2 availability of such comparable goods or technology;
3 and

4 “(F) describing the nature, the subjects, and the
5 results of consultations with other countries concerning
6 the proposed changes in export controls.

7 The concerns expressed by Members of Congress during the
8 consultations required by this subsection shall be specifically
9 addressed in each report submitted pursuant to this para-
10 graph.

11 “(4)(A) If the President certifies to the Congress that
12 extraordinary circumstances involving vital United States
13 foreign policy interests require the immediate exercise of the
14 authority of this section, the President may establish, without
15 prior consultation with the Congress in accordance with
16 paragraph (2) but otherwise subject to the requirements of
17 this section, provisional export controls which temporarily su-
18 persede otherwise applicable export controls under this sec-
19 tion.

20 “(B) Provisional export controls under this paragraph
21 may become effective only after the President’s certification
22 has been submitted to the Congress. Each such certification
23 shall include—

24 “(i) a detailed justification for the imposition of
25 provisional export controls, including a description of

1 the extraordinary circumstances justifying the imposi-
2 tion of provisional controls, a discussion of the vital
3 foreign policy interests involved, and a discussion of
4 the basis for the President's determination that it is es-
5 sential to implement changes in export controls imme-
6 diately, prior to consultation with the Congress pursu-
7 ant to this subsection; and

8 “(ii) the information required by subparagraphs
9 (A) through (F) of paragraph (3).

10 “(C) Provisional export controls under this paragraph—

11 “(i) shall be limited to those changes in export
12 controls which the President determines are essential
13 to have in effect in order to deal with the extraordi-
14 nary circumstances during the period of consultation
15 with the Congress required by this subsection;

16 “(ii) shall expire not later than 10 days after they
17 are established, excluding days on which both Houses
18 of Congress are not in session; and

19 “(iii) may not be extended or renewed under this
20 paragraph.

21 “(D) Upon establishing provisional export controls, the
22 President shall immediately initiate consultation with the
23 Congress in accordance with paragraph (2) concerning the
24 proposed changes in export controls.

1 “(E) Notwithstanding section 4(e) of this Act, the Presi-
2 dent may not delegate his functions under this paragraph.

3 “(5) To the extent necessary to further the effectiveness
4 of the export controls, portions of a report required by para-
5 graph (3) or of a certification required by paragraph (4)(B)
6 may be submitted to the Congress on a classified basis, and
7 shall be subject to the provisions of section 12(c) of this Act.

8 “(6) In the case of export controls under this section
9 which prohibit or curtail the export of any agricultural com-
10 modity, a report submitted pursuant to paragraph (3), and a
11 certification submitted pursuant to paragraph (4)(B), shall be
12 deemed to be the report required by section 7(g)(3) of this
13 Act.”.

14 **ROLE OF THE SECRETARY OF STATE**

15 **SEC. 2.** Section 6(a) of the Export Administration Act
16 of 1979 (22 U.S.C. App. 2405(a)) is amended by adding at
17 the end thereof the following new paragraph:

18 “(5) Before imposing, extending, expanding, or other-
19 wise modifying export controls under this section, the Secre-
20 tary shall obtain the concurrence of the Secretary of State. If
21 the Secretary of State is unable to concur, the matter shall be
22 referred to the President for resolution.”.

23 **CONSULTATION WITH INDUSTRY**

24 **SEC. 3.** Section 6(c) of the Export Administration Act of
25 1979 (22 U.S.C. app. 2405(c)) is amended—

1 (1) by inserting “(1)” immediately before “The”;
2 and

3 (2) by adding at the end thereof the following:

4 “(2) Before imposing, extending, expanding, or other-
5 wise modifying export controls under this section, the Secre-
6 tary shall cause to be published in the Federal Register a
7 notice of the proposed changes in export controls (including
8 either the terms or substance of the proposed changes) and
9 shall give affected United States industries and other inter-
10 ested persons an opportunity to submit written data, views,
11 or arguments (with or without opportunity for oral presenta-
12 tion) with respect to the proposed changes. The requirements
13 of this paragraph do not apply in the case of provisional
14 export controls established under subsection (e)(4).”.

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